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Note verbale dated 27 August 2018 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith Austria's report on the implementation of Security Council resolution 2397 (2017) in accordance with paragraph 17 of that resolution (see annex).

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Annex to the note verbale dated 27 August 2018 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

Report of Austria on the implementation of Security Council resolution 2397 (2017)

1. Pursuant to paragraph 17 of Security Council resolution 2397 (2017), the Permanent Mission of Austria to the United Nations has the honour to inform the Security Council Committee established pursuant to resolution 1718 (2006) of the steps taken by Austria to implement the measures imposed in resolution 2397 (2017).

2. Austria and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2397 (2017) by taking the following common measures:[1]

(a) Council Implementing Decision (CFSP) 2018/16 of 8 January 2018 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and one additional entity (travel ban and/or asset freeze);

(b) Council Implementing Regulation (EU) 2018/12 of 8 January 2018 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Implementing Decision (CFSP) 2018/16;

(c) Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which sets out the commitment of the European Union to implementing the measures contained in Security Council resolution 2397 (2017) by imposing the following measures:

(i) The European Union had already introduced a full prohibition on the export of crude oil in Council Decision (CFSP) 2017/1860, with a derogation for exports carried out for humanitarian purposes if approved in advance on a case-by-case basis by the Committee. In Council Decision (CFSP) 2018/293, it is further specified that the prohibition applies to the direct or indirect supply of all crude oil to the Democratic People's Republic of Korea, whether or not originating in the territories of the member States, including through the use of pipelines, rail lines or vehicles;

(ii) The European Union had already introduced a full prohibition on the export of all refined petroleum products in Council Decision (CFSP) 2017/1860, which included a provision that exports of refined petroleum products could be authorized for humanitarian purposes by the competent authority of a member State under the conditions mentioned in paragraph 14 of Security Council resolution 2375 (2017). In Council Decision (CFSP) 2018/293, it is further specified that the amount of refined petroleum products authorized for export cannot exceed 500,000 barrels per year and that the means of export includes pipelines, rail lines or vehicles;

(iii) Prohibition on the import of food and agricultural products, machinery, electrical equipment, earth and stone, including magnesite and magnesia, wood and vessels;

[1] All common measures are published in the *Official Journal of the European Union*.

(iv) Prohibition on the acquisition of fishing rights from the Democratic People's Republic of Korea;

(v) Prohibition on the export of all industrial machinery, transportation vehicles, iron, steel and other metals, unless it has been determined by a member State that the provision of spare parts is needed to maintain the safe operation of passenger aircraft of the Democratic People's Republic of Korea;

(vi) Obligation to repatriate to the Democratic People's Republic of Korea immediately and no later than 21 December 2019 all nationals of that country earning income in the jurisdiction of a member State and all government safety oversight attachés of the Democratic People's Republic of Korea who are monitoring these workers abroad, unless certain exceptions apply, subject to applicable national and international law;

(vii) Obligation for member States to seize, inspect and impound any vessel in their ports and the power to seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities or the transport of items prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea. Under certain conditions, the provisions for the impounding of vessels shall cease to apply;

(viii) Obligation to cooperate as promptly as possible with another State which has information that leads it to suspect that the Democratic People's Republic of Korea is attempting to export illicit cargo and where that other State requests additional maritime and shipping information;

(ix) Prohibition on the provision of insurance or reinsurance services to vessels identified as being involved in activities or the transport of items prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless the Committee determines, on a case-by-case basis, that the vessel is engaged in activities only for livelihood or humanitarian purposes;

(x) Obligation to deregister any vessel where there are reasonable grounds to believe that the vessel has been involved in activities or the transport of items prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea;

(xi) Prohibition on the provision of classification services to vessels identified as being involved in activities or the transport of items prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless approved in advance by the Committee on a case-by-case basis;

(xii) Prohibition on the registration of any vessel that has been deregistered by another State unless approved by the Committee in advance on a case-by-case basis;

(xiii) The prohibition on the export of new or used vessels had already been introduced in Council Decision (CFSP) 2017/345;

(xiv) Obligation to seize and dispose of items the export of which is prohibited under resolution 2397 (2017);

(xv) Prohibition on satisfying any claim in connection with any contract or transaction the performance of which has been affected by the measures provided for in resolution 2397 (2017);

(d) Council Regulation (EU) 2018/285 of 26 February 2018 amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the

Democratic People's Republic of Korea, which gives effect to the measures provided in Council Decision (CFSP) 2018/293.

3. The above-mentioned Council regulations are binding in their entirety and directly applicable in all States members of the European Union. Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No. 329/2007 requires member States to determine the penalties applicable to infringements of their provisions. Penalties for violations of directly applicable European Union law are set out in the respective sections of the relevant Austrian legislation mentioned in paragraph 4. Non-compliance may constitute a criminal offence punishable by up to five years of imprisonment or by a fine of up to 360 times the applicable daily rate (e.g., in the case of the Foreign Trade Act).

4. In addition to the common measures of the European Union, within the scope of Austria's national implementation competence, the Austrian authorities apply the following national legislation in implementing the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council:

(a) Sanctions Act 2010 (Federal Law Gazette I No. 36/2010, as amended; a revision of this act is currently under way);

(b) Foreign Trade Act (Federal Law Gazette I No. 26/2011, as amended), supplemented by the First Foreign Trade Regulation (Federal Law Gazette II No. 343/2011, as amended) and the Third Foreign Trade Regulation (Federal Law Gazette II No. 6/2015, as amended);

(c) War Materials Act (Federal Law Gazette I No. 57/2001, as amended) and War Materials Regulation (Federal Law Gazette No. 624/1977);

(d) Foreign Exchange Act (Federal Law Gazette I No. 123/2003, as amended);

(e) Banking Act (Federal Law Gazette No. 532/1993, as amended).

5. As regards restrictions on admission (visa ban), Austria has enacted the following national legislation, which, together with Council Decision (CFSP) 2016/849 and Regulation (EC) No. 539/2001, provides the basis for refusal of admission and denial of requests for a visa:

(a) Aliens Police Act 2005 (Federal Law Gazette I No. 100/2005, as amended);

(b) Settlement and Residence Act (Federal Law Gazette I No. 100/2005, as amended).

The above-mentioned regulations require nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union. The travel restrictions are implemented through the visa application process.

6. According to the competent national authorities, the implementation of the imposed measures currently does not pose any particular difficulty. The competent national authorities continue to exercise enhanced vigilance over the very limited bilateral import/export activities and continue to conduct outreach activities aimed at relevant trade and industry sectors to increase awareness of trade patterns and activities of entities of the Democratic People's Republic of Korea and to provide information about changes in the sanctions regime.

7. In the context of the Proliferation Security Initiative, Austria supported the joint statement made in January 2018 by Proliferation Security Initiative partners in support of enforcing Security Council resolutions 2375 (2017) and 2397 (2017). In May 2018, Austria participated in the high-level meeting in Paris on the occasion of

the fifteenth anniversary of the establishment of the Proliferation Security Initiative, during which four joint statements relevant to the implementation of resolution 2397 (2017) were adopted covering the following topics: (a) ensuring a robust initiative; (b) strengthening authorities for action; (c) enhancing critical interdiction capabilities and practices; and (d) expanding strategic communications.

8. The Government of Austria is fully committed to maintaining its high level of implementation and to keeping the measures taken under review, as necessary.